2. RESPONSE/REMARKS

2.1 STATUS OF THE CLAIMS

Claims 1-7, 9-14, 16-20, 23-32, 44, 46-48, 50, and 51 were pending at the time of the Action.

Claims 1-7, 9-12, 14, 16-20 and 29-32 have been allowed.

Claims 13, 23, 24, 26-28,44, 47,48, and 51 have been amended herein.

Claims 52 and 53 have been added herein.

Claims 1-7, 9-14, 16-20, 23-32, 44, 46-48, and 50-53 remain pending in the application.

2.2 SUPPORT FOR THE CLAIMS

Support for the pending claims can be found throughout the original claims, specification and figures as filed. It is Applicants' belief that no new matter is included as a result of the accompanying amendment.

2.3 THE REJECTION OF CLAIMS UNDER 35 U.S.C. § 112 IS OVERCOME.

Claims 13, 23-28, 44, 46-48, 50 and 51 were rejected under 35 U.S.C. § 112, second paragraph, allegedly as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention.

Applicants respectfully traverse. However, in an effort to be fully responsive to the Examiner's concerns, and to provide even further clarity to the claims in question, Applicants have improved the language of the cited claims to overcome the perceived lack of antecedent basis, and to provide better clarity of the recited steps of the method. To that end, claims 13 and 26 have been amended to recite "wherein the antibody is immobilized to a solid phase." Claim 23 has been amended to recite "wherein said antibody is a monoclonal antibody or a monoclonal antibody fragment thereof," and the phrase "or antibody fragment" has been deleted from claim

24.

To improve claim dependencies, claim 27 has been amended to now depend from claim 16, claim 28 has been amended to depend from claim 27, claim 47 has been amended to depend from claim 44, and claim 51 has been amended to depend from claim 48.

Claim 44 has also been amended to recite a "method for assessing skeletal growth of a pre-adult subject other than a patient with severe heart disease or renal failure, comprising measuring N-terminal pro-C-type natriuretic peptide (NT-CNP) in a biological fluid from the subject, and comparing this measured level of NT-CNP against a mean NT-CNP level from a sex- and age-matched control population for which at least a first skeletal growth information is known, wherein a significant deviation in the measured level of NT-CNP in the subject from the mean level of NT-CNP in the control population is indicative of abnormal skeletal growth, wherein said measuring step comprises detecting binding between NT-CNP and an antibody, or an antibody fragment thereof, that selectively binds NT-CNP or an NT-proCNP peptide."

Claim 48 has been amended to recite a "method for assessing skeletal growth of a subject other than a patient with severe heart disease or renal failure suspected of having a skeletal disease or disorder, comprising measuring N-terminal pro-C-type natriuretic peptide (NT-CNP) in a biological fluid from the subject, and comparing this measured level of NT-CNP against a mean NT-CNP level from a sex- and age-matched control population for which at least a first skeletal growth information is known, wherein a significant deviation in the measured level of NT-CNP in the subject from the mean level of NT-CNP in the control population is indicative of abnormal skeletal growth in said subject, wherein said measuring step comprises detecting binding between NT-CNP and an antibody, or an antibody fragment thereof, that selectively

binds NT-CNP or an NT-proCNP peptide."

Applicants note in response to the Examiner's notation of page 3 of the Action that claim 44 is "unduly duplicative of the subject matter as claimed in claim 3" that claim 44 provides that the measuring step comprises "detecting binding between NT-CNP and an antibody, or an antibody fragment thereof, that selectively binds NT-CNP or an NT-proCNP peptide," and this is of a different scope than that present in claim 3.

Similarly, on page 3 of the Action claims 48, 50 and 51 were rejected as being "unduly duplicative of the subject matter as in claims 1, 9, and 11." In response, Applicants respectfully note that claim 48 provides that the measuring step comprises "detecting binding between NT-CNP and an antibody, or an antibody fragment thereof, that selectively binds NT-CNP or an NT-proCNP peptide," and as such, claim 48 and its dependencies are of a significantly different scope than that present in claims 1, 9, and 11.

As noted in MPEP §706.03(k), "court decisions have confirmed applicant's right to restate (*i.e.,* by plural claiming) the invention in a reasonable number of ways. Indeed, a mere difference in scope between claims has been held to be enough." Since the scope of the noted claims are different, claims 44 and 48 (as well as their dependencies) are both permissible; therefore, the rejection of these claims for "duplicity" should now be withdrawn.

Finally, new claims 52 and 53 have been added to depend from the method set forth in claim 29. These claims mirror the language found in allowed claims 9 and 10.

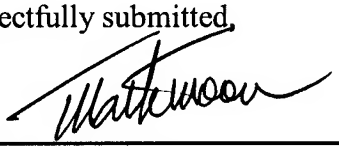
Applicants believe the accompanying amendment fully addresses the Examiner's concerns, and now respectfully request that the rejection be withdrawn.

2.4 CONCLUSION

It is respectfully submitted that all claims are fully-enabled by the Specification, that all pending claims are definite, and that the inventions embodied in those claims are useful, novel, and non-obvious. Applicants believe that the claims are acceptable under all sections of the Statutes and are now in condition for ready allowance. Applicants earnestly solicit concurrence by the Examiner and the issuance of a Notice of Allowance in the case with all due speed. Applicants note for the record their explicit right to re-file claims to one or more aspects of the invention as originally claimed in one or more continuing application(s) retaining the priority claim from the present and parent cases.

Should Examiner Grun have any questions, a telephone call to the undersigned Applicants' representative would be appreciated.

Respectfully submitted,



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